

103D CONGRESS
1ST SESSION

H. R. 1255

To amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. STARK (for himself, Mr. LEVIN, Mr. McDERMOTT, and Mr. CARDIN) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the

5 “National Health Care Anti-Fraud and Abuse Act of

6 1993”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—ALL-PAYER FRAUD AND ABUSE PROGRAM

Sec. 101. All-payer fraud and abuse control program

Sec. 102. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health benefit plan.

Sec. 103. Public reporting of fraudulent actions.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 201. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 204. Civil monetary penalties.

Sec. 205. Actions subject to criminal penalties.

Sec. 206. Sanctions against practitioners and persons for failure to follow corrective action plan of peer review organization.

Sec. 207. Restrictions on certain durable medical equipment marketing and sales activities.

Sec. 208. Intermediate sanctions for medicare health maintenance organizations.

Sec. 209. Effective date.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 301. Requirements for uniform claims and electronic claims data set.

Sec. 302. Quarterly publication of adverse actions taken.

Sec. 303. Study of electronic reporting of ownership information.

3 TITLE I—ALL-PAYER FRAUD AND 4 ABUSE PROGRAM

5 SEC. 101. ALL-PAYER FRAUD AND ABUSE CONTROL PRO- 6 GRAM

7 (a) ESTABLISHMENT OF PROGRAM.—

8 (1) ESTABLISHMENT.—Not later than January
 9 1, 1995, the Secretary shall establish in the Office

of the Inspector General of the Department of Health and Human Services a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(2) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program established under paragraph (1), the Secretary shall consult with, and arrange for the sharing of data and resources with the Attorney General, State law enforcement agencies, State medicaid fraud and abuse units, and State agencies responsible for the licensing and certification of health care providers.

(3) COORDINATION WITH THIRD PARTY INSURERS.—In carrying out the program established under paragraph (1), the Secretary shall consult

1 with, and arrange for the sharing of data with rep-
2 resentatives of private sponsors of health benefit
3 plans and other providers of health insurance.

4 (4) REGULATIONS.—

5 (A) IN GENERAL.—The Secretary shall by
6 regulation establish standards to carry out the
7 program under paragraph (1).

8 (B) INFORMATION STANDARDS.—

9 (i) IN GENERAL.—Such standards
10 shall include standards relating to the fur-
11 nishing of information by health insurers
12 (including self-insured health benefit
13 plans), providers, and others to enable the
14 Secretary to carry out the program (in-
15 cluding coordination with law enforcement
16 agencies under paragraph (2) and third
17 party insurers under paragraph (3)).

18 (ii) CONFIDENTIALITY.—Such stand-
19 ards shall include procedures to assure
20 that such information is provided and uti-
21 lized in a manner that protects the con-
22 fidentiality of the information and the pri-
23 vacy of individuals receiving health care
24 services.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary under the program under this section, with respect to the Secretary's performance of duties under the program, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii).

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) covered items and services provided by an entity;

(II) the names and unique physician identification numbers of all physicians with an ownership or investment interest in the entity (as described in section 1877(a)(2)(A) of the Social Security Act) or whose immediate relatives have such an ownership or investment interest;

(III) the names of all other individuals with such an ownership or investment interest in the entity; and

(IV) any other ownership and related information required to be disclosed by the entity under section 1124 or section 1124A of the Social Security Act.

(D) INTEGRITY OF ISSUANCE OF PROVIDER IDENTIFICATION CODES.—Such standards shall, insofar as they relate to the issuance of unique provider codes (described in section 301(c)(4))—

(i) include standards relating to the information (including ownership information described in subparagraph (C)(ii) and other information needed in the adminis-

tration of the program) to be required for the issuance of such codes, and

(ii) provide for the issuance of such a code upon the presentation of such information as would be sufficient to provide for the issuance of similar codes under the medicare program.

(5) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—

(A) IN GENERAL.—In addition to any other amounts authorized to be appropriated to the Secretary for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts described in subparagraph (B) to enable the Secretary to conduct investigations of allegations of health care fraud and otherwise carry out the program established under paragraph (1) in a fiscal year.

(B) AMOUNTS DESCRIBED.—The amounts referred to in subparagraph (A) are as follows:

(i) For fiscal year 1995,
\$300,000,000.

(ii) For fiscal year 1996,
\$350,000,000.

1 (iii) For fiscal year 1997,
2 \$400,000,000.

3 (iv) For fiscal year 1998,
4 \$450,000,000.

5 (6) ENSURING ACCESS TO DOCUMENTATION.—

6 (A) The Inspector General of the Department of
7 Health and Human Services is authorized to exercise
8 the authority described in paragraphs (4) and (5) of
9 section 6 of the Inspector General Act of 1978 (re-
10 lating to subpoenas and administration of oaths)
11 with respect to the activities under the all-payor
12 fraud and abuse control program established under
13 this subsection to the same extent as such Inspector
14 General may exercise such authorities to perform the
15 functions assigned to such official by such Act.

16 (B) Section 1128(b) of the Social Security Act
17 (42 U.S.C. 1320a-7(b)) is amended by adding at
18 the end the following new paragraph:

19 “(15) FAILURE TO SUPPLY REQUESTED
20 INFORMATION TO THE INSPECTOR GENERAL.—

21 Any individual or entity that fails fully and ac-
22 curately to provide, upon request of the Inspec-
23 tor General of the Department of Health and
24 Human Services, records, documents, and other
25 information necessary for the purposes of carry-

ing out activities under the all-payor fraud and abuse control program established under section 101 of the National Health Care Anti-Fraud and Abuse Act of 1993.”.

(b) ESTABLISHMENT OF ANTI-FRAUD AND ABUSE TRUST FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Anti-Fraud and Abuse Trust Fund” (in this section referred to as the “Trust Fund”). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this subtitle, section 143(b), and title XI of the Social Security Act.

(B) AUTHORIZATION TO ACCEPT GIFTS.—

The Managing Trustee of the Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund, or any activity financed through the Trust Fund.

1 (2) MANAGEMENT.—

2 (A) IN GENERAL.—The Trust Fund shall
3 be managed by the Secretary through a Manag-
4 ing Trustee designated by the Secretary.

5 (B) INVESTMENT OF FUNDS.—It shall be
6 the duty of the Managing Trustee to invest
7 such portion of the Trust Fund as is not, in the
8 trustee's judgment, required to meet current
9 withdrawals. Such investments may be made
10 only in interest-bearing obligations of the Unit-
11 ed States or in obligations guaranteed as to
12 both principal and interest by the United
13 States. For such purpose such obligations may
14 be acquired (i) on original issue at the issue
15 price, or (ii) by purchase of outstanding obliga-
16 tions at market price. The purposes for which
17 obligations of the United States may be issued
18 under chapter 31 of title 31, United States
19 Code, are hereby extended to authorize the issu-
20 ance at par of public-debt obligations for pur-
21 chase by the Trust Fund. Such obligations is-
22 sued for purchase by the Trust Fund shall have
23 maturities fixed with due regard for the needs
24 of the Trust Fund and shall bear interest at a
25 rate equal to the average market yield (com-

1 puted by the Managing Trustee on the basis of
2 market quotations as of the end of the calendar
3 month next preceding the date of such issue) on
4 all marketable interest-bearing obligations of
5 the United States then forming a part of the
6 public debt which are not due or callable until
7 after the expiration of 4 years from the end of
8 such calendar month, except that where such
9 average is not a multiple of $\frac{1}{8}$ of 1 percent, the
10 rate of interest on such obligations shall be the
11 multiple of $\frac{1}{8}$ of 1 percent nearest such market
12 yield. The Managing Trustee may purchase
13 other interest-bearing obligations of the United
14 States or obligations guaranteed as to both
15 principal and interest by the United States, on
16 original issue or at the market price, only where
17 the Trustee determines that the purchase of
18 such other obligations is in the public interest.

19 (C) Any obligations acquired by the Trust
20 Fund (except public-debt obligations issued ex-
21 clusively to the Trust Fund) may be sold by the
22 Managing Trustee at the market price, and
23 such public-debt obligations may be redeemed
24 at par plus accrued interest.

1 (D) The interest on, and the proceeds from
2 the sale or redemption of, any obligations held
3 in the Trust Fund shall be credited to and form
4 a part of the Trust Fund.

5 (E) The receipts and disbursements of the
6 Secretary in the discharge of the functions of
7 the Secretary shall not be included in the totals
8 of the budget of the United States Government.
9 For purposes of part C of the Balanced Budget
10 and Emergency Deficit Control Act of 1985,
11 the Secretary and the Trust Fund shall be
12 treated in the same manner as the Federal Re-
13 tirement Thrift Investment Board and the
14 Thrift Savings Fund, respectively. The United
15 States is not liable for any obligation or liability
16 incurred by the Trust Fund.

17 (3) USE OF FUNDS.—Amounts in the Trust
18 Fund shall be used to assist the Inspector General
19 of the Department of Health and Human Services in
20 carrying out the all-payor fraud and abuse control
21 program established under subsection (a) in the fis-
22 cal year involved.

1 **SEC. 102. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD**
2 **AND ABUSE SANCTIONS TO ALL FRAUD AND**
3 **ABUSE AGAINST ANY HEALTH BENEFIT PLAN.**

4 (a) CIVIL MONETARY PENALTIES.—Section 1128A
5 of the Social Security Act (42 U.S.C. 1320a–7a) is amend-
6 ed as follows:

7 (1) In subsection (a)(1), in the matter before
8 subparagraph (A), by inserting “or of any health
9 benefit plan,” after “subsection (i)(1)),”.

10 (2) In subsection (b)(1)(A), by inserting “or
11 under a health benefit plan” after “title XIX”.

12 (3) In subsection (f)—

13 (A) by redesignating paragraph (3) as
14 paragraph (4); and

15 (B) by inserting after paragraph (2) the
16 following new paragraph:

17 “(3) With respect to amounts recovered arising
18 out of a claim under a health benefit plan, the por-
19 tion of such amounts as is determined to have been
20 paid by the plan shall be repaid to the plan.”.

21 (4) In subsection (i)—

22 (A) in paragraph (2), by inserting “or
23 under a health benefit plan” before the period
24 at the end, and

25 (B) in paragraph (5), by inserting “or
26 under a health benefit plan” after “or XX”.

1 (b) CRIMES.—

2 (1) SOCIAL SECURITY ACT.—Section 1128B of
3 such Act (42 U.S.C. 1320a-7b) is amended as fol-
4 lows:

5 (A) In the heading, by adding at the end
6 the following: “OR HEALTH BENEFIT PLANS”.

7 (B) In subsection (a)(1)—

8 (i) by striking “title XVIII or” and
9 inserting “title XVIII,”, and

10 (ii) by adding at the end the follow-
11 ing: “or a health benefit plan (as defined
12 in section 1128(i)),”.

13 (C) In subsection (a)(5), by striking “title
14 XVIII or a State health care program” and in-
15 serting “title XVIII, a State health care pro-
16 gram, or a health benefit plan”.

17 (D) In the second sentence of subsection
18 (a)—

19 (i) by inserting after “title XIX” the
20 following: “or a health benefit plan”, and

21 (ii) by inserting after “the State” the
22 following: “or the plan”.

23 (E) In subsection (b)(1), by striking “title
24 XVIII or a State health care program” each
25 place it appears and inserting “title XVIII, a

1 State health care program, or a health benefit
2 plan”.

3 (F) In subsection (b)(2), by striking “title
4 XVIII or a State health care program” each
5 place it appears and inserting “title XVIII, a
6 State health care program, or a health benefit
7 plan”.

8 (G) In subsection (b)(3), by striking “title
9 XVIII or a State health care program” each
10 place it appears in subparagraphs (A) and (C)
11 and inserting “title XVIII, a State health care
12 program, or a health benefit plan”.

13 (H) In subsection (d)(2)—

14 (i) by striking “title XIX,” and insert-
15 ing “title XIX or under a health benefit
16 plan,” and

17 (ii) by striking “State plan,” and in-
18 serting “State plan or the health benefit
19 plan,”.

20 (2) TREBLE DAMAGES FOR CRIMINAL SANC-
21 TIONS.—Section 1128B of such Act (42 U.S.C.
22 1320a–7b) is amended by adding at the end the fol-
23 lowing new subsection:

24 “(f) In addition to the fines that may be imposed
25 under subsection (a), (b), or (c), any individual found to

1 have violated the provisions of any of such subsections
2 may be subject to treble damages.”.

3 (3) IDENTIFICATION OF COMMUNITY SERVICE
4 OPPORTUNITIES.—Section 1128B of such Act (42
5 U.S.C. 1320a–7b) is further amended by adding at
6 the end the following new subsection:

7 “(g) The Secretary shall—

8 “(1) in consultation with State and local health
9 care officials, identify opportunities for the satisfac-
10 tion of community service obligations that a court
11 may impose upon the conviction of an offense under
12 this section, and

13 “(2) make information concerning such oppor-
14 tunities available to Federal and State law enforce-
15 ment officers and State and local health care
16 officials.”.

17 (c) HEALTH BENEFIT PLAN DEFINED.—Section
18 1128 of such Act (42 U.S.C. 1320a–7) is amended by re-
19 designating subsection (i) as subsection (j) and by insert-
20 ing after subsection (h) the following new subsection:

21 “(i) HEALTH BENEFIT PLAN DEFINED.—For pur-
22 poses of sections 1128A and 1128B, the term ‘health ben-
23 efit plan’ means a health benefit program other than the
24 medicare program, the medicaid program, or a State
25 health care program.”.

1 (d) CONFORMING AMENDMENT.—Section
 2 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a-
 3 7(b)(8)(B)(ii)) is amended by striking “1128A” and in-
 4 serting “1128A (other than a penalty arising from a
 5 health benefit plan, as defined in subsection (i))”.

6 (e) EFFECTIVE DATE.—The amendments made by
 7 this section shall take effect January 1, 1995.

8 **SEC. 103. REPORTING OF FRAUDULENT ACTIONS UNDER**
 9 **MEDICARE.**

10 (a) ESTABLISHMENT OF PROGRAM.—Not later than
 11 1 year after the date of the enactment of this Act, the
 12 Secretary of Health and Human Services shall establish
 13 a program through which individuals entitled to benefits
 14 under the medicare program may report to the Secretary
 15 on a confidential basis (at the individual’s request) in-
 16 stances of suspected fraudulent actions arising under the
 17 program by providers of items and services under the pro-
 18 gram.

19 (b) NOTICE TO MEDICARE BENEFICIARIES.—

20 (1) INCLUDED IN ANNUAL NOTICE OF BENE-
 21 FITS.—Section 1804 of the Social Security Act (42
 22 U.S.C. 1395b-2) is amended—

23 (A) in paragraph (2), by striking “and” at
 24 the end;

1 (B) in paragraph (3), by striking the pe-
 2 riod at the end and inserting “, and”; and

3 (C) by inserting after paragraph (3) the
 4 following new paragraph:

5 “(4) a description of the Secretary’s program
 6 for the reporting by individuals entitled to benefits
 7 under this title of suspected instances of fraudulent
 8 actions arising under the program by providers of
 9 items and services under the program, and of infor-
 10 mation to alert such individuals to the existence of
 11 problems of fraud and abuse under the program.”.

12 (2) EFFECTIVE DATE.—The amendment made
 13 by paragraph (1) shall take effect on the first day
 14 of the first calendar year that begins after the expi-
 15 ration of the 1-year period that begins on the date
 16 of the enactment of this Act.

17 **TITLE II—REVISIONS TO CUR-** 18 **RENT SANCTIONS FOR FRAUD** 19 **AND ABUSE**

20 **SEC. 201. MANDATORY EXCLUSION FROM PARTICIPATION** 21 **IN MEDICARE AND STATE HEALTH CARE PRO-** 22 **GRAMS.**

23 (a) INDIVIDUAL CONVICTED OF FELONY RELATING
 24 TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

“(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.”.

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking “CONVICTION” and inserting “MISDEMEANOR CONVICTION”; and

(B) by striking “criminal offense” and inserting “criminal offense consisting of a misdemeanor”.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

1 (1) IN GENERAL.—Section 1128(a) of the So-
2 cial Security Act (42 U.S.C. 1320a-7(a)), as amend-
3 ed by subsection (a), is amended by adding at the
4 end the following new paragraph:

5 “(4) FELONY CONVICTION RELATING TO CON-
6 TROLLED SUBSTANCE.—Any individual or entity
7 that has been convicted, under Federal or State law,
8 of a criminal offense consisting of a felony relating
9 to the unlawful manufacture, distribution, prescrip-
10 tion, or dispensing of a controlled substance.”.

11 (2) CONFORMING AMENDMENT.—Section
12 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3))
13 is amended—

14 (A) in the heading, by striking “CONVIC-
15 TION” and inserting “MISDEMEANOR CONVIC-
16 TION”; and

17 (B) by striking “criminal offense” and in-
18 serting “criminal offense consisting of a mis-
19 demeanor”.

1 **SEC. 202. ESTABLISHMENT OF MINIMUM PERIOD OF EX-**
2 **CLUSION FOR CERTAIN INDIVIDUALS AND**
3 **ENTITIES SUBJECT TO PERMISSIVE EXCLU-**
4 **SION FROM MEDICARE AND STATE HEALTH**
5 **CARE PROGRAMS.**

6 (a) **IN GENERAL.**—Section 1128(c)(3) of the Social
7 Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by
8 adding at the end the following new subparagraphs:

9 “(D) In the case of an exclusion of an individual or
10 entity under paragraph (1), (2), or (3) of subsection (b),
11 the period of the exclusion shall be 3 years, unless the
12 Secretary determines that a shorter period is appropriate
13 because of mitigating circumstances or that a longer pe-
14 riod is appropriate because of aggravating circumstances.

15 “(E) In the case of an exclusion of an individual or
16 entity under subsection (b)(4) or (b)(5), the period of the
17 exclusion shall not be less than the period during which
18 the individual’s or entity’s license to provide health care
19 is revoked, suspended, or surrendered.

20 “(F) In the case of an exclusion of an individual or
21 entity under subsection (b)(6)(B), the period of the exclu-
22 sion shall be not less than 1 year.”.

23 (b) **CONFORMING AMENDMENT.**—Section
24 1128(c)(3)(A) of such Act (42 U.S.C. 1320a–7(c)(3)(A))
25 is amended by striking “subsection (b)(12)” and inserting

1 “paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection
2 (b)”.

3 **SEC. 203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH**
4 **OWNERSHIP OR CONTROL INTEREST IN**
5 **SANCTIONED ENTITIES.**

6 Section 1128(b) of the Social Security Act (42 U.S.C.
7 1320a-7(b)) is amended by adding at the end the follow-
8 ing new paragraph:

9 “(15) INDIVIDUALS CONTROLLING A SANC-
10 TIONED ENTITY.—Any individual who has a direct
11 or indirect ownership or control interest of 5 percent
12 or more, or an ownership or control interest (as de-
13 fined in section 1124(a)(3)) in, or who is an officer,
14 director, agent, or managing employee (as defined in
15 section 1126(b)) of, an entity—

16 “(A) that has been convicted of any of-
17 fense described in subsection (a) or in para-
18 graph (1), (2), or (3);

19 “(B) against which a civil monetary pen-
20 alty has been assessed under section 1128A; or

21 “(C) that has been excluded from partici-
22 pation under a program under title XVIII or
23 under a State health care program.”.

1 SEC. 204. CIVIL MONETARY PENALTIES.

2 (a) PROHIBITION AGAINST OFFERING INDUCEMENTS
3 TO INDIVIDUALS ENROLLED UNDER OR EMPLOYED BY
4 PROGRAMS OR PLANS.—

5 (1) INDUCEMENTS TO INDIVIDUALS ENROLLED
6 UNDER MEDICARE.—Section 1128A(a) of the Social
7 Security Act (42 U.S.C. 1320a-7a(a)) is amended—

8 (A) by striking “or” at the end of para-
9 graph (1)(D);

10 (B) by striking “, or” at the end of para-
11 graph (2) and inserting a semicolon;

12 (C) by striking the semicolon at the end of
13 paragraph (3) and inserting “; or”; and

14 (D) by inserting after paragraph (3) the
15 following new paragraph:

16 “(4) routinely transfers anything for less than
17 fair market value to (or for the benefit of) an indi-
18 vidual entitled to benefits under the medicare pro-
19 gram in order to influence the individual to receive
20 from a particular provider, practitioner, or supplier
21 a covered item or service for which payment may be
22 made under such program, including the routine
23 waiver of the payment of any amounts owed by the
24 individual to the person for an item or service
25 furnished under part B of such program;”.

1 (2) INDUCEMENTS TO EMPLOYEES.—Section
2 1128A(a) of such Act (42 U.S.C. 1320a-7a(a)), as
3 amended by paragraph (1), is further amended—

4 (A) by striking “or” at the end of para-
5 graph (3);

6 (B) by striking the semicolon at the end of
7 paragraph (4) and inserting “; or”; and

8 (C) by inserting after paragraph (4) the
9 following new paragraph:

10 “(5) pays a bonus, reward, or other incentive to
11 an employee to induce the employee to encourage in-
12 dividuals to seek or obtain covered items or services
13 for which payment may be made under the medicare
14 program, a State health care program, or a health
15 benefit plan where the amount of the incentive is in
16 proportion to the activities of the employee in en-
17 couraging individuals to seek or obtain covered items
18 or services;”.

19 (b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP
20 OR CONTROL INTEREST IN PARTICIPATING ENTITY.—
21 Section 1128A(a) of such Act, as amended by subsection
22 (a), is further amended—

23 (A) by striking “or” at the end of paragraph
24 (4);

1 (B) by striking the semicolon at the end of
2 paragraph (5) and inserting “; or”; and

3 (C) by inserting after paragraph (5) the follow-
4 ing new paragraph:

5 “(6) in the case of a person who is not an orga-
6 nization, agency, or other entity, is excluded from
7 participating in a program under title XVIII or a
8 State health care program in accordance with this
9 subsection or under section 1128 and who, during
10 the period of exclusion, retains a direct or indirect
11 ownership or control interest of 5 percent or more,
12 or an ownership or control interest (as defined in
13 section 1124(a)(3)) in, or who is an officer, director,
14 agent, or managing employee (as defined in section
15 1126(b)) of, an entity that is participating in a pro-
16 gram under title XVIII or a State health care
17 program;”.

18 (c) INCREASE IN MAXIMUM AMOUNT OF PENALTIES
19 AND ASSESSMENTS.—Section 1128A(a) of such Act (42
20 U.S.C. 1320a–7a(a)), as amended by subsections (a) and
21 (b), is amended in the matter following paragraph (6)—

22 (1) by striking “\$2,000” and inserting
23 “\$10,000”; and

24 (2) by striking “twice the amount” and insert-
25 ing “three times the amount”.

1 (d) CLAIM FOR ITEM OR SERVICE BASED ON INCOR-
2 RECT CODING.—Section 1128A(a)(1)(A) of such Act (42
3 U.S.C. 1320a–7a(a)(1)(A)) is amended by striking
4 “claimed,” and inserting the following: “claimed, including
5 any person who on a repeated basis presents or causes
6 to be presented a claim for an item or service that is based
7 on a code (in the case of a physician’s service) or a diag-
8 nosis-related group (in the case of inpatient hospital serv-
9 ices) that results in a greater payment to the person than
10 the code or diagnosis-related group that actually applies
11 to the item or service,”.

12 (e) PERMITTING PARTIES TO BRING ACTIONS ON
13 OWN BEHALF.—Section 1128A of such Act (42 U.S.C.
14 1320a–7a) is amended by adding at the end the following
15 new subsection:

16 “(m)(1) Subject to paragraphs (2) and (3), any per-
17 son (including an organization, agency, or other entity,
18 but excluding a beneficiary, as defined in subsection
19 (i)(5)) that suffers harm as a direct result of any activity
20 of an individual or entity which makes the individual or
21 entity subject to a civil monetary penalty under this sec-
22 tion may, in a civil action against the individual or entity
23 in the United States District Court, obtain damages
24 against the individual or entity and such equitable relief
25 as is appropriate.

1 “(2) A person may bring a civil action under this sub-
2 section only if the person provides the Secretary with writ-
3 ten notice of the person’s intent to bring an action under
4 this subsection, the identities of the individuals or entities
5 the person intends to name as defendants to the action,
6 and all information the person possesses regarding the ac-
7 tivity that is the subject of the action that may materially
8 affect the Secretary’s decision to initiate a proceeding to
9 impose a civil monetary penalty under this section against
10 the defendants.

11 “(3) A person may bring a civil action under this sub-
12 section only if any of the following conditions are met:

13 “(A) During the 60-day period that begins on
14 the date the Secretary receives the written notice de-
15 scribed in paragraph (2), the Secretary does not no-
16 tify the person that the Secretary intends to initiate
17 a proceeding to impose a civil monetary penalty
18 under this section against the defendants.

19 “(B) If the Secretary notifies the person during
20 the 60-day period described in subparagraph (A)
21 that the Secretary intends to initiate a proceeding to
22 impose a civil monetary penalty under this section
23 against the defendants, the Secretary subsequently
24 notifies the person that the Secretary no longer

1 intends to initiate such a proceeding against the
2 defendants.

3 “(C) After the expiration of the 2-year period
4 that begins on the date the Secretary notifies the
5 person that the Secretary intends to initiate a pro-
6 ceeding to impose a civil monetary penalty under
7 this section against the defendants, the Secretary
8 has not made a good faith effort to initiate such a
9 proceeding against the defendants.

10 “(4) If a person is awarded any amounts in an action
11 brought under this subsection that are in excess of the
12 damages suffered by the person as a result of the defend-
13 ant’s activities, 10 percent of such amounts shall be with-
14 held from the person for payment into the Anti-Fraud and
15 Abuse Trust Fund established under section 101(b) of the
16 National Health Care Anti-Fraud and Abuse Act of 1993.

17 “(5) No action may be brought under this subsection
18 more than 6 years after the date of the activity with re-
19 spect to which the action is brought.”.

20 **SEC. 205. ACTIONS SUBJECT TO CRIMINAL PENALTIES.**

21 (a) **ANTI-KICKBACK SANCTIONS.—**

22 (1) **PERMITTING SECRETARY TO IMPOSE CIVIL**
23 **MONETARY PENALTY.—**Section 1128A(a) of the So-
24 cial Security Act (42 U.S.C. 1320a-7a(a)), as

1 amended by subsections (a) and (b) of section 204,
2 is further amended—

3 (A) by striking “or” at the end of para-
4 graph (5);

5 (B) by striking the semicolon at the end of
6 paragraph (6) and inserting “; or”; and

7 (C) by inserting after paragraph (6) the
8 following new paragraph:

9 “(7) carries out any activity in violation of
10 paragraph (1) or (2) of section 1128B(b);”.

11 (2) RESTRICTION ON APPLICATION OF EXCEP-
12 TION FOR AMOUNTS PAID TO EMPLOYEES.—Section
13 1128B(b)(3)(B) of such Act (42 U.S.C. 1320a-
14 7b(b)(3)(B)) is amended by striking “services;” and
15 inserting the following: “services, but only if such
16 amount is not contingent upon the employee refer-
17 ring individuals to the employer for the furnishing
18 (or arranging for the furnishing) of such items or
19 services and is not determined in a manner that
20 takes into account (directly or indirectly) the volume
21 or value of any referrals by the employee to the em-
22 ployer for the furnishing (or arranging for the
23 furnishing) of such items or services;”.

24 (b) AUTHORITY TO ENJOIN SANCTIONED INDIVID-
25 UAL OR ENTITY FROM DISPOSING OF ASSETS REQUIRED

1 TO PAY CRIMINAL PENALTY.—Section 1128B of such Act
 2 (42 U.S.C. 1320a–7b), as amended by paragraphs (2) and
 3 (3) of section 102(b), is further amended by adding at
 4 the end the following new subsection:

5 “(h) The provisions of section 1128A(k) shall apply
 6 to any person subject to a fine under this section in the
 7 same manner as such provisions apply to a person subject
 8 to a civil monetary penalty under such section.”.

9 **SEC. 206. SANCTIONS AGAINST PRACTITIONERS AND PER-**
 10 **SONS FOR FAILURE TO FOLLOW CORRECTIVE**
 11 **ACTION PLAN OF PEER REVIEW ORGANIZA-**
 12 **TION.**

13 (a) MINIMUM PERIOD OF EXCLUSION FOR PRACTI-
 14 TIONERS AND PERSONS FAILING TO MEET CORRECTIVE
 15 PLAN OF PEER REVIEW ORGANIZATION.—

16 (1) IN GENERAL.—The second sentence of sec-
 17 tion 1156(b)(1) of the Social Security Act (42
 18 U.S.C. 1320c–5(b)(1)) is amended by striking “may
 19 prescribe)” and inserting “may prescribe, except
 20 that such period may not be less than 1 year)”.

21 (2) CONFORMING AMENDMENT.—Section
 22 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is
 23 amended by striking “shall remain” and inserting
 24 “shall (subject to the minimum period specified in
 25 the second sentence of paragraph (1))”.

1 (b) REPEAL OF “UNWILLING OR UNABLE” CONDI-
2 TION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1)
3 of such Act (42 U.S.C. 1320c-5(b)(1)) is amended—

4 (1) in the second sentence, by striking “and de-
5 termines” and all that follows through “such obliga-
6 tions,”; and

7 (2) by striking the third sentence.

8 (c) AMOUNT OF CIVIL MONEY PENALTY.—Section
9 1156(b)(3) of such Act (42 U.S.C. 1320c-5(b)(3)) is
10 amended by striking “the actual or estimated cost” and
11 inserting the following: “\$10,000 for each instance”.

12 **SEC. 207. RESTRICTIONS ON CERTAIN DURABLE MEDICAL**
13 **EQUIPMENT MARKETING AND SALES ACTIVI-**
14 **TIES.**

15 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
16 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
17 MENT TO MEDICARE BENEFICIARIES.—

18 (1) IN GENERAL.—Section 1834(a) of the So-
19 cial Security Act (42 U.S.C. 1395m(a)) is amended
20 by adding at the end the following new paragraph:

21 “(17) PROHIBITION AGAINST UNSOLICITED
22 TELEPHONE CONTACTS BY SUPPLIERS.—

23 “(A) IN GENERAL.—A supplier of a cov-
24 ered item under this subsection may not contact
25 an individual enrolled under this part by tele-

1 phone regarding the furnishing of a covered
2 item to the individual (other than a covered
3 item the supplier has already furnished to the
4 individual) unless—

5 “(i) the individual gives permission to
6 the supplier to make contact by telephone
7 for such purpose; or

8 “(ii) the supplier has furnished a cov-
9 ered item under this subsection to the indi-
10 vidual during the 15-month period preced-
11 ing the date on which the supplier contacts
12 the individual for such purpose.

13 “(B) PROHIBITING PAYMENT FOR ITEMS
14 FURNISHED SUBSEQUENT TO UNSOLICITED
15 CONTACTS.—If a supplier knowingly contacts
16 an individual in violation of subparagraph (A),
17 no payment may be made under this part for
18 any item subsequently furnished to the individ-
19 ual by the supplier.

20 “(C) EXCLUSION FROM PROGRAM FOR
21 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
22 LICITED CONTACTS.—If a supplier knowingly
23 contacts individuals in violation of subpara-
24 graph (A) to such an extent that the supplier’s
25 conduct establishes a pattern of contacts in vio-

lation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.”.

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

“(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

“(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

1 “(ii) before the item was furnished,
2 the patient was informed that payment
3 under this part may not be made for that
4 item and the patient has agreed to pay for
5 that item.

6 “(B) SANCTIONS.—If a supplier knowingly
7 and willfully fails to make refunds in violation
8 of subparagraph (A), the Secretary may apply
9 sanctions against the supplier in accordance
10 with section 1842(j)(2).

11 “(C) NOTICE.—Each carrier with a con-
12 tract in effect under this part with respect to
13 suppliers of covered items shall send any notice
14 of denial of payment for covered items by rea-
15 son of paragraph (17)(B) and for which pay-
16 ment is not requested on an assignment-related
17 basis to the supplier and the patient involved.

18 “(D) TIMELY BASIS DEFINED.—A refund
19 under subparagraph (A) is considered to be on
20 a timely basis only if—

21 “(i) in the case of a supplier who does
22 not request reconsideration or seek appeal
23 on a timely basis, the refund is made with-
24 in 30 days after the date the supplier re-

1 ceives a denial notice under subparagraph
2 (C), or

3 “(ii) in the case in which such a re-
4 consideration or appeal is taken, the re-
5 fund is made within 15 days after the date
6 the supplier receives notice of an adverse
7 determination on reconsideration or ap-
8 peal.”.

9 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
10 (42 U.S.C. 1395m(h)(3)) of such Act is amended by strik-
11 ing “Paragraph (12)” and inserting “Paragraphs (12)
12 and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall apply to items furnished after
15 the expiration of the 60-day period that begins on the date
16 of the enactment of this Act.

17 **SEC. 208. INTERMEDIATE SANCTIONS FOR MEDICARE**
18 **HEALTH MAINTENANCE ORGANIZATIONS.**

19 (a) APPLICATION OF INTERMEDIATE SANCTIONS FOR
20 ANY PROGRAM VIOLATIONS.—

21 (1) IN GENERAL.—Section 1876(i)(1) of the
22 Social Security Act (42 U.S.C. 1395mm(i)(1)) is
23 amended by striking “the Secretary may terminate”
24 and all that follows and inserting the following: “in
25 accordance with procedures established under para-

1 graph (9), the Secretary may at any time terminate
2 any such contract or may impose the intermediate
3 sanctions described in paragraph (6)(B) or (6)(C)
4 (whichever is applicable) on the eligible organization
5 if the Secretary determines that the organization—

6 “(A) has failed substantially to carry out the
7 contract;

8 “(B) is carrying out the contract in a manner
9 inconsistent with the efficient and effective adminis-
10 tration of this section;

11 “(C) is operating in a manner that is not in the
12 best interests of the individuals covered under the
13 contract; or

14 “(D) no longer substantially meets the applica-
15 ble conditions of subsections (b), (c), (e), and (f).”.

16 (2) OTHER INTERMEDIATE SANCTIONS FOR
17 MISCELLANEOUS PROGRAM VIOLATIONS.—Section
18 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is
19 amended by adding at the end the following new
20 subparagraph:

21 “(C) In the case of an eligible organization for which
22 the Secretary makes a determination under paragraph (1)
23 the basis of which is not described in subparagraph (A),
24 the Secretary may apply the following intermediate sanc-
25 tions:

1 “(i) civil money penalties of not more than
2 \$25,000 for each determination under paragraph (1)
3 if the deficiency that is the basis of the determina-
4 tion has directly adversely affected (or has the sub-
5 stantial likelihood of adversely affecting) an individ-
6 ual covered under the organization’s contract;

7 “(ii) civil money penalties of not more than
8 \$10,000 for each week beginning after the initiation
9 of procedures by the Secretary under paragraph (9)
10 during which the deficiency that is the basis of a de-
11 termination under paragraph (1) exists; and

12 “(iii) suspension of enrollment of individuals
13 under this section after the date the Secretary noti-
14 fies the organization of a determination under para-
15 graph (1) and until the Secretary is satisfied that
16 the deficiency that is the basis for the determination
17 has been corrected and is not likely to recur.”.

18 (3) PROCEDURES FOR IMPOSING SANCTIONS.—
19 Section 1876(i) of such Act (42 U.S.C. 1395mm(i))
20 is amended by adding at the end the following new
21 paragraph:

22 “(9) The Secretary may terminate a contract with an
23 eligible organization under this section or may impose the
24 intermediate sanctions described in paragraph (6) on the
25 organization in accordance with formal investigation and

1 compliance procedures established by the Secretary under
2 which—

3 “(A) the Secretary provides the organization
4 with the opportunity to develop and implement a
5 corrective action plan to correct the deficiencies that
6 were the basis of the Secretary’s determination
7 under paragraph (1);

8 “(B) the Secretary shall impose more severe
9 sanctions on organizations that have a history of de-
10 ficiencies or that have not taken steps to correct de-
11 ficiencies the Secretary has brought to their atten-
12 tion;

13 “(C) there are no unreasonable or unnecessary
14 delays between the finding of a deficiency and the
15 imposition of sanctions; and

16 “(D) the Secretary provides the organization
17 with reasonable notice and opportunity for hearing
18 (including the right to appeal an initial decision) be-
19 fore imposing any sanction or terminating the con-
20 tract.”.

21 (4) CONFORMING AMENDMENTS.—(A) Section
22 1876(i)(6)(B) of such Act (42 U.S.C.
23 1395mm(i)(6)(B)) is amended by striking the sec-
24 ond sentence.

1 (B) Section 1876(i)(6) of such Act (42 U.S.C.
2 1395mm(i)(6)) is further amended by adding at the
3 end the following new subparagraph:

4 “(D) The provisions of section 1128A (other than
5 subsections (a) and (b)) shall apply to a civil money pen-
6 alty under subparagraph (A) or (B) in the same manner
7 as they apply to a civil money penalty or proceeding under
8 section 1128A(a).”.

9 (b) AGREEMENTS WITH PEER REVIEW ORGANIZA-
10 TIONS.—

11 (1) REQUIREMENT FOR WRITTEN AGREE-
12 MENT.—Section 1876(i)(7)(A) of the Social Security
13 Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by
14 striking “an agreement” and inserting “a written
15 agreement”.

16 (2) DEVELOPMENT OF MODEL AGREEMENT.—
17 Not later than July 1, 1994, the Secretary of Health
18 and Human Services shall develop a model of the
19 agreement that an eligible organization with a risk-
20 sharing contract under section 1876 of the Social
21 Security Act must enter into with an entity provid-
22 ing peer review services with respect to services pro-
23 vided by the organization under section
24 1876(i)(7)(A) of such Act.

25 (3) REPORT BY GAO.—

1 (A) STUDY.—The Comptroller General
2 shall conduct a study of the costs incurred by
3 eligible organizations with risk-sharing con-
4 tracts under section 1876(b) of such Act of
5 complying with the requirement of entering into
6 a written agreement with an entity providing
7 peer review services with respect to services pro-
8 vided by the organization, together with an
9 analysis of how information generated by such
10 entities is used by the Secretary of Health and
11 Human Services to assess the quality of
12 services provided by such eligible organizations.

13 (B) REPORT TO CONGRESS.—Not later
14 than July 1, 1996, the Comptroller General
15 shall submit a report to the Committee on
16 Ways and Means and the Committee on Energy
17 and Commerce of the House of Representatives
18 and the Committee on Finance of the Senate on
19 the study conducted under subparagraph (A).

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to contract years be-
22 ginning on or after January 1, 1995.

1 **SEC. 209. EFFECTIVE DATE.**

2 Except as otherwise provided in section 207(c), the
3 amendments made by this title shall take effect January
4 1, 1995.

5 **TITLE III—ADMINISTRATIVE**
6 **AND MISCELLANEOUS PROVI-**
7 **SIONS**

8 **SEC. 301. REQUIREMENTS FOR UNIFORM CLAIMS AND**
9 **ELECTRONIC CLAIMS DATA SET.**

10 (a) **REQUIREMENTS.—**

11 (1) **SUBMISSION OF CLAIMS.**—Each health serv-
12 ice provider that furnishes services in the United
13 States for which payment may be made under a
14 health benefit plan shall submit any claim for pay-
15 ment for such services only in a form and manner
16 consistent with standards established under sub-
17 section (c).

18 (2) **ACCEPTANCE OF CLAIMS.**—A health benefit
19 plan may not reject a claim for payment under the
20 plan on the basis of the form or manner in which
21 the claim is submitted if the claim is submitted in
22 accordance with the standards established under
23 subsection (c).

24 (3) **EFFECTIVE DATE.**—This subsection shall
25 apply to claims for services furnished on or after the

1 date that is 6 months after the date standards are
2 established under subsection (c).

3 (b) ENFORCEMENT THROUGH CIVIL MONEY PEN-
4 ALTIES.—

5 (1) IN GENERAL.—

6 (A) PROVIDERS.—In the case of a health
7 service provider that submits a claim in viola-
8 tion of subsection (a)(1), the provider is subject
9 to a civil money penalty of not to exceed \$100
10 (or, if greater, the amount of the claim) for
11 each such violation.rejects a claim in violation
12 of subsection (a)(2), the plan is subject to a
13 civil money penalty of not to exceed \$100 (or,
14 if greater, the amount of the claim) for each
15 such violation.

16 (B) PLANS.—In the case of a health bene-
17 fit plan that rejects a claim in violation of sub-
18 section (a)(2), the plan is subject to a civil
19 monetary penalty of not to exceed \$100 (or, if
20 greater, the amount of the claim) for each such
21 violation.

22 (2) PROCESS.—The provisions of section 1128A
23 of the Social Security Act (other than subsections
24 (a) and (b)) shall apply to a civil money penalty
25 under paragraph (1) in the same manner as such

provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(3) SUNSET FOR PENALTY.—No civil money penalty may be imposed under this subsection for submission (or rejection) of any claim on or after the date that is 36 months after the effective date specified in subsection (a)(3).

(c) STANDARDS RELATING TO UNIFORM CLAIMS.—

(1) ESTABLISHMENT OF STANDARDS.—The Secretary of Health and Human Services shall establish standards that relate to the form and manner of submission of claims for benefits under a health benefit plan.

(2) SCOPE OF INFORMATION.—

(A) IN GENERAL.—The standards under this subsection are intended to cover substantially most claims that are filed under health benefit plans. Such information need not include all elements that may potentially be required to be reported under utilization review provisions of plans.

(B) ENSURING ACCOUNTABILITY FOR CLAIMS SUBMITTED ELECTRONICALLY.—In establishing such standards, the Secretary, in consultation with appropriate agencies, shall in-

1 clude such methods of ensuring provider re-
2 sponsibility and accountability for claims sub-
3 mitted electronically that are designed to con-
4 trol fraud and abuse in the submission of such
5 claims.

6 (C) COMPONENTS.—In establishing such
7 standards the Secretary shall—

8 (i) with respect to data elements, de-
9 fine data fields, formats, and medical no-
10 menclature, and plan benefit and insurance
11 information; and

12 (ii) develop a single, uniform coding
13 system for diagnostic and procedure codes.

14 (3) USE OF TASK FORCES.—In adopting stand-
15 ards under this subsection, the Secretary shall take
16 into account the recommendations of current task
17 forces, including at least the Workgroup on Elec-
18 tronic Data Interchange, National Uniform Billing
19 Committee, the Uniform Claim Task Force, and the
20 Computer-based Patient Record Institute.

21 (4) UNIFORM, UNIQUE PROVIDER IDENTIFICA-
22 TION CODES.—In establishing standards under this
23 subsection—

24 (A) the Secretary shall provide for a
25 unique identifier code for each health service

1 provider that furnishes services for which a
2 claim may be submitted under a health benefit
3 plan, and

4 (B) in the case of a provider that has a
5 unique identifier issued for purposes of the
6 medicare program, the code provided under
7 subparagraph (A) shall be the same as such
8 unique identifier.

9 (5) DEADLINE.—The Secretary shall first pro-
10 vide for the standards for the uniform claims under
11 this subsection by not later than 1 year after the
12 date of the enactment of this Act.

13 (d) USE UNDER MEDICARE AND MEDICAID PRO-
14 GRAMS.—

15 (1) REQUIREMENT FOR PROVIDERS.—In the
16 case of a health service provider that submits a
17 claim for services furnished under the medicare pro-
18 gram or medicaid program in violation of subsection
19 (a)(1), no payment shall be made under such pro-
20 gram for such services.

21 (2) REQUIREMENTS OF INTERMEDIARIES AND
22 CARRIERS UNDER MEDICARE PROGRAM.—The Sec-
23 retary shall provide, in regulations promulgated to
24 carry out title XVIII of the Social Security Act, that
25 the claims process provided under that title is modi-

1 fied to the extent required to conform to the stand-
 2 ards established under subsection (c).

3 (3) REQUIREMENTS OF STATE MEDICAID
 4 PLANS.—As a condition for the approval of State
 5 plans under the medicaid program, effective as of
 6 the effective date specified in subsection (a)(3), each
 7 such plan shall provide, in accordance with regula-
 8 tions of the Secretary, that the claims process pro-
 9 vided under the plan is modified to the extent re-
 10 quired to conform to the standards established under
 11 subsection (c).

12 (e) DEFINITIONS.—

13 (1) HEALTH BENEFIT PLAN.—In this section:

14 (A) IN GENERAL.—The term “health bene-
 15 fit plan” means, except as provided in subpara-
 16 graphs (B) through (D), any public or private
 17 entity or program that provides for payments
 18 for health care services, including—

19 (i) a group health plan (as defined in
 20 section 5000(b)(1) of the Internal Revenue
 21 Code of 1986), and

22 (ii) any other health insurance ar-
 23 rangement, including any arrangement
 24 consisting of a hospital or medical expense
 25 incurred policy or certificate, hospital or

1 medical service plan contract, or health
2 maintenance organization subscriber con-
3 tract.

4 (B) PLANS EXCLUDED.—Such term does
5 not include—

6 (i) accident-only, credit, or disability
7 income insurance;

8 (ii) coverage issued as a supplement
9 to liability insurance;

10 (iii) an individual making payment on
11 the individual's own behalf (or on behalf of
12 a relative or other individual) for
13 deductibles, coinsurance, or services not
14 covered under a health benefit plan; and

15 (iv) such other plans as the Secretary
16 may determine, because of the limitation of
17 benefits to a single type or kind of health
18 care, such as dental services, or other rea-
19 sons should not be subject to the require-
20 ments of this section.

21 (C) PLANS INCLUDED.—Such term
22 includes—

23 (i) worker's compensation or similar
24 insurance, and

1 (ii) automobile medical-payment in-
2 surance.

3 (D) TREATMENT OF DIRECT FEDERAL
4 PROVISION OF SERVICES.—Such term does not
5 include a Federal program that provides di-
6 rectly for the provision of health services to
7 beneficiaries.

8 (2) HEALTH SERVICE PROVIDER.—In this sec-
9 tion, the term “health service provider” includes a
10 provider of services (as defined in section 1861(u) of
11 the Social Security Act), physician, supplier, and
12 other person furnishing health care services.

13 (3) SECRETARY.—In this section, the term
14 “Secretary” means the secretary of health and
15 human services.

16 **SEC. 302. QUARTERLY PUBLICATION OF ADVERSE ACTIONS**
17 **TAKEN.**

18 (a) IN GENERAL.—Part A of title XI of the Social
19 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
20 ing at the end the following new section:

21 “QUARTERLY PUBLICATION OF ADVERSE ACTIONS TAKEN

22 “SEC. 1144. Not later than 30 days after the end
23 of each calendar quarter, the Secretary shall publish in
24 the Federal Register a listing of all final adverse actions
25 taken during the quarter under this part (including pen-
26 alties imposed under section 1107, exclusions under sec-

1 tion 1128, the imposition of civil monetary penalties under
2 section 1128A, and the imposition of criminal penalties
3 under section 1128B) and under section 1156.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to calendar quarters beginning
6 on or after January 1, 1995.

7 **SEC. 303. STUDY OF ELECTRONIC REPORTING OF OWNER-**
8 **SHIP INFORMATION.**

9 (a) STUDY.—The Secretary of Health and Human
10 Services shall conduct a study on the feasibility and desir-
11 ability of establishing a method by which the information
12 required to be reported under the all-payer anti-fraud pro-
13 gram established under section 101 on the ownership of
14 entities providing health care services may be reported
15 electronically.

16 (b) REPORT.—Not later than 1 year after the date
17 of the enactment of this Act, the Secretary shall submit
18 a report on the study conducted under subsection (a) to
19 the Committee on Ways and Means and the Committee
20 on Energy and Commerce of the House of Representatives
21 and the Committee on Finance of the Senate.

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